REMARKS

Claims 5 and 32 have been amended. Claims 1-36 are pending in the application. Claims 1-36 are rejected.

Claim Rejections – 35 U.S.C. 112

Claims 32-34 are rejected under 35 U.S.C. 112, second paragraph as being indefinite. Specifically, the Examiner objects to the use of the term "first." The Applicants have amended claim 32 to remove the term "first." As such, Applicants respectfully request that the indefiniteness rejection be withdrawn.

Claim Rejections – 35 U.S.C. 103(a)

Claims 1, 3-7, 9-15, 17-19, 28, 29. 31 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,192,388 *(Cajolet)*, in view of U.S. Publication No. 2002/0169606 *(Bantz)*.

As explained in the instant Application, remote systems capable of performing a task may respond to an indication that a task(s) is available for processing, and the client system may assign the task to the remote system that responds first. *See* Application, p.14, line 22 to p.15, line 7; p.16, ll. 9-13; p.18, ll. 9-14. By using criteria based on response order, the client system may make fewer, if any, scheduling/delegation decisions, and the need to monitor performance status of the remote systems is reduced. *See* Application, page 21, ll. 11-15. In this way, the client system has shifted the scheduling/delegation responsibility more to the remote systems. Against this general backdrop, the claims are discussed next.

For ease of discussion, claim 1 is discussed first. Claim 1, directed to a method, comprises (1) indicating to one or more remote systems in a distributed system that a task in a task list is available for processing based on a distribution list; (2) receiving at least one response

from the one or more remote systems capable of performing the task responsive to the indication; and (3) assigning the task from the task list to the first remote system to respond.

The Examiner admits that *Cajolet* at least does not disclose assigning the task from the task list to the first remote system to respond. Rather, as pointed out by Applicants in the previous response, *Cajolet* teaches a dispatcher 88 (the central machine) that evaluates responses from helping machines (referred to as assistants 86) in deciding which machine to assign the task. Specifically, *Cajolet* describes that the dispatcher 88 evaluates each problem solving assistant's response relative to other assistant responses based on pre-defined criteria, such as processor speed and available RAM. *See Cajolet*, Fig. 7, items 124-134, Fig. 8, col. 9, line 57 to col. 10, line 6, and col. 11, line 11 to col. 12, line 24. Thus, instead of assigning a task to the remote system that is first to respond, *Cajolet* describes using a complex criteria that evaluates the resources of the helping machine before deciding which helping machine will get the assignment.

While admitting that *Cajolet* does not teach assigning the task to the remote system that is first to respond, the Examiner nevertheless argues that *Bantz* discloses this claimed feature. The Examiner's argument is problematic for several reasons. As an initial matter, the claims call for assigning the task to the system that is first to respond and not simply to the first available workstation as the Examiner contends. In *Bantz*, the workstations do not respond at all to a request. Rather, *Bantz* discloses that a first available call taker workstation will be assigned the task of handling the next call in a call queue. *See Bantz*, ¶[0021]. A call received at the call center is placed in the call queue where it is forwarded to the first free call taker workstation. *See id.* at ¶[0021]. Therefore, because the workstations do not respond to a request, *Bantz* at

least does not and cannot teach **assigning** the task from the task list **to the first remote system to respond**, as called for by claim 1 of the instant Application.

The Examiner's rejection is problematic for another fundamental reason: the proposed combination of *Cajolet* and *Bantz* teaches away from the claimed invention. It is well established that teaching away by the prior art constitutes *prima facie* evidence that the claimed invention is **not** obvious. *See, inter alia, In re Fine,* 5 U.S.P.Q.2d (BNA) 1596, 1599 (Fed. Cir. 1988); *In re Nielson,* 2 U.S.P.Q.2d (BNA) 1525, 1528 (Fed. Cir. 1987); *In re Hedges,* 228 U.S.P.Q. (BNA) 685, 687 (Fed. Cir. 1986). Moreover, it is also well established that where a modification or combination renders a prior art reference inoperable for its intended purpose, the reference teaches away from the modification or combination. *In re Gordon,* 221 U.S.P.Q. (BNA) 1125, 1127 (Fed. Cir. 1984). That is, if the proposed combination undermines the purpose of the prior art, it cannot be obvious. Here, the Examiner proposes modifying *Cajolet* with the teachings of *Bantz* that would defeat the purpose taught in *Cajolet*. As noted, *Cajolet* discloses using a complex criteria based on the information provided by the helping machines to identify the machine best suited to assist. *Bantz*, on the other hand, discloses that a first available call taker workstation will be assigned the task of handling the next call. The teachings of the two references are thus inconsistent, and modifying the teachings of *Cajolet* (which describes using a complex criteria based on the responses from the helping machine to identify the best suited machine) with those of *Bantz* (which describes using the first available workstation) would render *Cajolet's* system inoperable for its intended purpose (*i.e.*, selecting the best suited machine based upon a criteria that relies on parameters, such as processor speed and available RAM, of the helping machine).

Accordingly, for at least the aforementioned reasons, claim 1 and its dependent claims are allowable. Additionally, independent claims 10, 18, 19, 29 and 35, and their respective dependent claims, are also allowable for similar reasons claim 1 is allowable. Moreover, claim 32 is also allowable for similar reasons because it discloses processing a task "assigned to the remote system, the remote system being first to <u>respond</u> to the indication from the client system for a given task."

The pending claims are allowable for additional reasons. For example, claim 2, which depends from claim 1, calls for a distribution list comprising destination addresses associated with the one or more remote systems, wherein indicating to the one or more remote systems comprises providing a message to a router that, responsive to the message, transmits at least a portion of the message to a plurality of the remote systems based on the distribution list. Transmitting a message to a router which in turn transmits at least part of a message to the destination remote systems allows for efficiently routing the indication from the client system. *See* Application, p.10, ll. 14-25.

Claim 2 is rejected over ***Cajolet*** in view of ***Bantz*** in further view of ***Harper***. The Examiner's rejection fails because ***Cajolet***, ***Bantz*** and ***Harper***, either alone or in combination, do not teach at least one of the claimed features. The Examiner admits that ***Cajolet*** and ***Bantz*** do not teach at least the claimed feature of "providing a message to a router", but the Examiner argues that ***Harper*** teaches this feature in Fig. 2. *See* Final Office Action, p.14-15. Specifically, the Examiner argues that Fig. 2 shows a gateway (router, according to the Examiner) connected to a dispatcher (client device, according to the Examiner) for transmitting task assignments to servers (remote devices, according to the Examiner). *Id.* at 15. Applicants respectfully disagree. A careful reading of ***Harper*** reveals that the gateway is not used to transmit task advertisements

to the servers, but rather the gateway simply creates a focal point for communicating with the rest of the network. *See **Harper***, ¶[0025]. The gateway also forwards *client requests* from the network to the task dispatcher, not task assignments from the task dispatcher to the servers, as suggested by the Examiner. *See id.* at ¶[0026].

Furthermore, ***Harper*** teaches that the task assignment logic in the task dispatcher assigns tasks to the appropriate server, and the task assignment block is connected directly to each server in the node (*i.e.*, the connection between the servers and the task assignment block does not go through the gateway). *See id.* at ¶[0026]; *See also id.* at Fig. 2. As such, contrary to the Examiner's assertion, ***Harper*** does not disclose a gateway (router, according to the Examiner) connected to a dispatcher (client device, according to the Examiner) for transmitting task assignments to servers (remote devices, according to the Examiner). In contrast, claim 2 of the instant invention teaches the feature of for a distribution list comprising destination addresses associated with the one or more remote systems, wherein indicating to the one or more remote systems comprises providing a message to a router that, responsive to the message, transmits at least a portion of the message to a plurality of the remote systems based on the distribution list.

Accordingly, for at least the aforementioned reasons, claim 2 is allowable. Moreover, with respect to claims 8 and 20, ***Hinni*** fails to cure the deficiencies of ***Cajolet***, ***Bantz*** and ***Harper***. Therefore, claims 8 and 20, and the claims depending from claim 20, are also allowable for similar reasons.

Other claims are allowable for additional features recited therein. For example, claim 14, which depends from claim 10, specifies instructions [contained in the storage media] that when executed enable the processor to allow a plurality of remote systems to perform the task in response to determining that a number of responding remote systems exceed a number of

available tasks. By allowing a plurality of remote systems to perform the same task, the client system increases its chances of having the best-suited remote system complete the task.

The Examiner rejects claim 14 over *Cajolet* in view of ***Bantz***. The cited references, however, when considered alone or in combination, fail to teach one or more of the claimed features. The Examiner suggests that *Cajolet* teaches this feature at col. 9, ll. 5-15. *See* Office Action, p.7-8. Specifically, the Examiner argues that a plurality of assistant computers process portions of the same task. *See id.* A closer reading of *Cajolet*, however, reveals that the cited passage is completely silent with respect to a plurality of assistant computers processing portions of the same task, contrary to the Examiner's assertion. Other paragraphs in *Cajolet* disclose a plurality of assistant computers completing tasks, but these passages do not teach the claimed feature of allowing a plurality of remote systems to perform the task. *See, e.g., Cajolet*, col 12, ll. 17-24. While a large task may be broken into smaller tasks, each smaller task is a separate task in and of itself. *See id.* (teaching that *Cajolet* describes these smaller tasks as "*different* and simpler portions" of a larger task). In contrast, claim 14 of the instant Application calls for the instructions that allow a plurality of remote systems to perform the task in response to determining that a number of responding remote systems exceed a number of available tasks. For at least the aforementioned reasons, claim 14 is allowable.

For at least these reasons, Applicants respectfully submit that the pending claims are in condition for allowance and request that the Examiner's rejection of these claims under 35 U.S.C. § 103 be withdrawn.

In view of the foregoing, it is respectfully submitted that all pending claims are in condition for immediate allowance. The Examiner is invited to contact the undersigned attorney

at (713) 934-4064 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

WILLIAMS, MORGAN & AMERSON, P.C.
CUSTOMER NO. 23720

Date: __March 6, 2008__ By: ___/Ruben S. Bains/_____
Ruben S. Bains, Reg. No. 46,532
10333 Richmond, Suite 1100
Houston, Texas 77042
(713) 934-4064
(713) 934-7011 (facsimile)
ATTORNEY FOR APPLICANT(S)